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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/036,690	12/21/2001	Glenn Kanner	ANGIO 00.03 CIP3	4978

7590

12/17/2004

Edmund P. Pfleger
Grossman, Tucker, Perreault & Pfleger, PLLC
Suite 604
795 Elm Street
Manchester, NH 03101

EXAMINER

PANTUCK, BRADFORD C

ART UNIT

PAPER NUMBER

3731

DATE MAILED: 12/17/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/036,690	KANNER ET AL.	
	Examiner	Art Unit	
	Bradford C Pantuck	3731	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11/04/2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-75 is/are pending in the application.
- 4a) Of the above claim(s) 22-38 and 40-75 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-21 and 39 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>06-04-04, 12-22-03</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

1. Applicant's election without traverse of Group 2 (claims 1-21 and 39) in the reply filed on 11/04/2004 is acknowledged.
2. Claims 22-38 and 40-75 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected group, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 11/04/2004.

Claim Objections

3. Claim 9 is objected to because of the following informalities: in line one, make "slit on" two words instead of one word. Appropriate correction is required.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1, 13, 15, 17, 19, and 39 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent NO. 5,336,231 to Adair. Regarding Claims 1, 13, and 39, Adair discloses a medical device having a tubular sheath (12) [Fig. 33 shows sheath 12 being cylindrical with hole 16 through its radial center, thus it is considered to be a sheath]. With reference to Fig. 33, Adair discloses tubular members (76) and (92), each of which is capable of stabilizing wires, such as wire (20). "Forceps" (84) can

be used as a "retention device" to retain tissue or suture and is shown grasping member (96), which will anchor the whole system (90) in place in the body.

Artery/vein (90) will preclude the removal of the system, as shown in Fig. 33.

Retention device (84) expands (each arm of the forceps can open and close) and is formed both *in* and *on* wire stabilization guide (76). Both wire stabilization guides (76 and 92) extend from an end of the sheath (12).

5. Regarding Claim 15, wire stabilization guides (76) and (92) are on opposite sides of the sheath, 180 degrees apart.
6. Regarding Claims 17 and 19, Adair's device is capable of these functions.
7. Claim 8 is rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 5,116,357 to Eberbach. Eberbach discloses a tubular sheath (67) as shown in Figure 13. This member can be considered a sheath, because it is tubular, and evidently has slots/holes in its center (as evident from dashed lines in Fig. 13). Eberbach discloses wire stabilization guides (66) and (88), both of which guide the wire (62). The distal end of stabilization guide (88) can selectively extend outwards, and is shown bent outwards in Fig. 13. This distal end reads on the retention device. Applicant gives not functional requirement for this retention device. Wire (62) forms a loop and is fixed to each stabilization guide (66)/(88).

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

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8. Claims 8, 14, and 21 are rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent No. 6,048,357 to Kontos. With reference to Fig. 9, Kontos has tubular sheath (60) with elongated tubular member (76) extending from the sheath. The two wire stabilization guides are (12) and (20). Wire stabilization guide (20) selectively expands because it is a balloon. Retention device (78) extends from the sheath. Wire (22) forms a loop and is fixed to the device.
9. Regarding Claim 14, Kontos' device is capable of this function as shown in Fig. 13.
10. Regarding Claim 21, the loop (22) is within the wound site. [Fig. 9].

Allowable Subject Matter

11. Claims 2-7, 9-12, 16, 18, and 20 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

U.S. Patent No. 6,315,787 B1 to Tsugita et al.

U.S. Patent No. 5,713,910 to Gordon et al.

U.S. Patent No. 4,935,027 to Yoon

U.S. Patent No. 5,496,332 to Sierra et al.

U.S. Patent No. 5,919,207 to Taheri

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U.S. Patent No. 6,206,893 B1 to Klein et al.

U.S. Patent No. 5,725,551 to Myers et al.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bradford C Pantuck whose telephone number is (571) 272-4701. The examiner can normally be reached on M-F 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anhtuan Nguyen can be reached on (571) 272-4963. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

BCP
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December 10, 2004

ANHTUAN T. NGUYEN
PRIMARY EXAMINER

12/13/04